

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No.1658 of 2015

Ram Das Tyagi @ Mouni - Bada S/o Shri Balram Das Tyagi, Aged About 66 Years Care Taker- Shiv Mandir Mouni Baba Aashram, At Sirpur, R/o Village Sirpur, P. S. & Post Sirpur, Tahsil And Distt. Mahasamund, Civil & Revenue Distt. Mahasamund, Distt. Mahasamund, (Chhattisgarh)

---- Petitioner

Versus

1. Union Of India Through The Director General, Department Of Archaeological Survey Of India, Janpad, New Delhi, Distt New Delhi (India)
2. The Superintending Archaeologist, Office Of The Superintending Archaeologist, Archaeological Survey Of India, Raipur Circle Poorvayatan, Goving Sarang Commercial Complex- 1st Floor, New Rajendra Nagar, Raipur, Civil & Revenue Distt Raipur, (Chhattisgarh)
3. The Collector, Mahasamund, Distt. Mahasamund, (Chhattisgarh)
4. The Superintendent Of Police, Mahasamund, Dist. Mahasamund, (Chhattisgarh)

---- Respondent

For Petitioner	:	Shri J. A. Lohani, Advocate
For Respondent No.1 & 2	:	Shri R. K. Gupta, Advocate
For Respondent No.3 & 4	:	Shri D. R. Minz, Dy.G.A.

Order On Board

22/09/2015

Heard.

2. This petition is directed against order dated 26-08-2015 (Annexure P-1), by which, the respondent No.2 has directed removal of encroachment of the petitioner.
3. Learned counsel for the petitioner submits that the order is illegal as there is no encroachment of the petitioner. The monuments housed in the Ashram and temporary structure are lying there since four decades and there is no encroachment made by the petitioner nor any additional construction made.
4. After going through the impugned order, I find that in the fact finding enquiry,

the petitioner was afforded opportunity of hearing, which has recorded a finding of fact that there has been encroachment and construction. Assertion of the petitioner has not been accepted. In the very nature of things, the dispute appears to be factual in nature and for its decision, evidence would be required. As there is no bar to file a civil suit, remedy of the petitioner in the present conspectus of facts would be to file suit for appropriate relief and not writ petition.

5. The petition, is therefore, dismissed with liberty to take recourse to remedy of filing civil suit.

Sd/-
Manindra Mohan Shrivastava
Judge